

ORDINANCE NO. _____, SERIES 2010

**AN ORDINANCE RELATING TO USE OF PORTABLE STORAGE
UNITS AND DUMPSTERS. (AS AMENDED BY SUBSTITUTION)**

Sponsored By: Councilman Brent Ackerson

WHEREAS, the use of dumpsters or large portable storage containers on residential property, within developed residential neighborhoods, may be helpful or necessary to maintain that property as required by law; and

WHEREAS, the use or storage of dumpsters or large portable storage containers on residential property, within developed residential neighborhoods, for extended periods of time, when not necessary for repair or construction, creates a “nuisance” as defined in the Property Maintenance Code; and

WHEREAS, the absence of clear guidelines and restrictions relating to dumpsters and portable storage containers under the current scheme of laws and regulations has allowed some property owners, within developed residential neighborhoods, to evade the clear intent of the laws and regulations, thereby creating safety hazards and eyesores in residential areas of Louisville Metro; and

WHEREAS, this ordinance is not intended to effect and/or alter the present laws related to commercial businesses, apartment complexes, commercial developments, residential developments, and/or new construction projects, whereby the entire residential dwelling is being newly constructed; and

WHEREAS, this ordinance is intended to effect and/or alter the present laws related to residential areas and neighborhoods, which are already developed, and that being which consist of single family dwellings and/or multifamily dwelling structures with four or fewer separate dwelling units; therefore

BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: An Ordinance enacting §156.300, entitled Portable Storage Units and Dumpsters, a new section to be implemented within the Louisville Metro Code of Ordinances Chapter 156 and including the following language:

§ 156.300 GENERALLY.

(A) Scope. The Provisions of this Chapter shall govern the minimum conditions and standards for the placement of Portable Storage Units, commonly referred to as “PODS”, and Dumpsters on or in the exterior areas of property zoned or used for residential purposes. Containers located outside of an enclosed building or structure may be placed on private property or on a public street adjacent to and serving a property benefitting from the use of said containers, as specified in this section and subject to the following requirements. This section does not apply to the following:

1. Containers permitted under the Louisville Metro zoning ordinance;
2. Containers shown on a stamped development plan that has been approved by the appropriate body pursuant to the Louisville Metro zoning ordinance;
3. Containers placed on a property zoned or used for commercial or industrial purposes, excluding home occupations as defined and regulated by the Louisville Metro zoning ordinance;

4. Multi-Family Residential Structures, as defined by Chapter 51 of the LMCO, using a Dumpster placed in a permanent location on the site for the regular household use of the residents of such structures;

5. Containers associated with new construction of a single family home, including its complete reconstruction, provided that a valid building permit exists for the construction activity, and no certificate of occupancy has been issued for the home.

(B) *Responsibility*. The Owner/Vendor and the Property Owner ~~shall be~~ may be jointly or individually responsible for compliance with the provisions of this Ordinance.

§ 156.301 DEFINITIONS.

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires different meaning.

CONTAINER(S). A collective term including Dumpsters and Portable Storage Units.

DUMPSTER(S). Any “bulk container” as that term is defined by LMCO § 51.001.

OWNER/VENDOR. Any individual or company of any form that exercises control over a Container, or that holds a contract or other binding agreement with the Property Owner for the use of the Container, but not including a hauler of the Container that has control over the Container only for purposes of transportation to and from the property on which it will be located.

PORTABLE STORAGE UNIT(S). Any container, storage unit, shed-like container, “Portable on-demand storage structures (PODS),” or other transportable receptacle designed and used for the temporary on-site storage and subsequent removal of personal property, household goods, wares, building materials, building supplies, or merchandise of any kind, and which is designed or intended to be located on a site for the use of occupants of a dwelling or building on a temporary basis.

PROPERTY OWNER. The owner or occupant of a property regulated by this section.

§ 156.302 PERMITTING.

(A) *Permit Requirement.* Containers may remain in use pursuant to a valid permit issued for the property on which the Container is placed. No more than one Dumpster and/or no more than ~~one~~ two Portable Storage Units shall be permitted for placement on any property. The Code Official may grant an exception to the number of Containers permitted for placement on any property for the time frames specified in subsection (C) of this section of up to four Dumpsters and four Portable Storage Units upon showing of good cause by the applicant. Prior to the placement of any Container pursuant to this section, the ~~Owner/Vendor or~~ Property Owner or the Property Owner’s designated agent and/or representative shall apply for and obtain a permit from the Code Official pursuant to the provisions and standards set forth herein. The cost of the permit shall be \$35.00.

(B) *Application Requirements.* Prior to the issuance of a permit for the placement of a Container, in addition to the payment of a permit fee, the applicant must provide to the

Code Official, on a form prepared by the Department of Codes and Regulations, the following:

1. The name, address and telephone number of the applicant;
2. The name, address and telephone number of the Property Owner of the property for which the permit is being requested;
3. The name, address and telephone number of the Owner/Vendor providing the number of and type of Container(s) requested;
4. The address of the property to be served by the Container;
5. The dimensions of the Container(s) and the intended location on the property for which it has been requested;
6. The delivery and removal dates of the Container;
7. Any other information deemed necessary or appropriate by the Code Official in order to ensure the applicant's compliance with the provisions of this Ordinance.

~~The application shall become the permit and shall be affixed to the Container at the time of its delivery as described in this Section.~~

(C) *Permit Duration and Extensions.* The Code Official shall not issue a permit for a Container to be located on any property, or upon any public street or sidewalk, or within any other public right-of-way for more than thirty (30) days from the date of issuance.

The Code Official may grant an extension of up to thirty (30) days upon showing of good cause by the applicant. Not more than two such extensions per permit shall be allowed. No more than three (3) separate permits shall be issued for any property in any consecutive twelve (12) month period and the Code Official shall not issue a new permit until thirty (30) days have passed following either the expiration of the previous permit or the date the removal of a previous Container, whichever happens first. Regardless of the number of extensions allowed for each permit, or the number of permits issued to a specific property, no property shall be permitted to locate a Container for more than a total of one-hundred-twenty (120) days in any consecutive twelve (12) month period.

(D) *Calamity or Emergency Exception.* If the Portable Storage Unit is being used to store personal property or the Dumpster is being used to dispose of waste or materials generated as a result of a major calamity (e.g. fire, flood, or other event causing significant property damage), the Code Official may extend the time periods provided in this section.

(E) *Requirement to Display Permit.* Permits issued for the placement of a Container shall be conspicuously displayed either on the front of the Container in a plastic liner or in the front window of a residence or other structure that is plainly visible from the public right-of-way and located on the property upon which the Container is placed.

(F) *Authority to Refuse Issuing Permit.* The Code Official, in his or her judgment, may refuse to issue a permit if he or she deems the proposed placement of the Container constitutes a danger to public safety or an unwarranted interference with the efficient movement of traffic.

(G) *Removal Upon Expiration of Permit.* Upon the expiration of a permit, the Container shall be immediately removed.

(H) *Short-Term Placement.* Containers may be located on a property for no more than seven (7) days without the payment of a permit fee. Any part of a day shall be considered an entire day. Should the Container be on the property for more than seven (7) days, a permit fee shall be remitted on the eighth (8th) day, and the application and permit shall be updated to indicate the payment of the fee, the new removal date for the Container, and any other changes made to the application. A revised and updated permit shall be affixed to the Container or otherwise displayed in accordance with this Section.

**§ 156.303 PERMISSIBLE LOCATION OF PORTABLE STORAGE CONTAINERS
AND DUMPSTERS.**

(A) No Container shall be located, in whole or in part, upon any street, sidewalk or within any public right-of-way without a permit issued by the Code Official pursuant to this section, and without the receipt of any additional permits necessary for encroaching into a public right-of-way, except as part of construction activity being conducted by or on behalf of a governmental unit. Containers shall not be placed on any public street or where parking is prohibited or that has a pavement width of less than eighteen (18) feet, measured from inside of curb to inside of curb, or from edge of pavement to edge of pavement. Containers may be issued a permit for placement on a city street only if the Container does not exceed eight (8) feet in width. If permitted, the Container must be located on the street in a manner that does not restrict the remaining street width to less

than ten (10) feet as measured from the inside of the curb or edge of the pavement to the edge of the Container. No Container shall be placed in a manner which damages any public improvement, including but not limited to, the pavement, asphalt, curb, gutter, street sign, grass, landscaping or tree located within the public right-of-way. If the Container causes damage to any public improvement, the Property Owner and/or the applicant for the permit and/or the Owner/Vendor shall reimburse Louisville Metro the cost of such repair.

(B) *Setbacks.* If a Container is placed in the required front yard of the property, then the Container shall be located only in the area designated for vehicular ingress and egress and must be placed a minimum of ten (10) feet from the edge of the curb. If no curb exists, the Container shall be placed a minimum of ten (10) feet from the edge of the pavement.

§ 156.304 USE AND MAINTENANCE OF CONTAINERS.

(A) *Usage of Portable Storage Unit.* All Portable Storage Units shall be securely closed when not in use. Materials, property or goods intended to be stored within the Portable Storage Unit shall not be stored outside of a Portable Storage Unit when not in use.

(B) *Usage of Dumpsters.* Rubbish and waste materials shall be completely contained within any Dumpster. The accumulation of rubbish or waste materials shall not be permitted outside the confines of a Dumpster, nor shall it be permitted to accumulate so that the attached lid cannot be firmly closed. In the event that the Dumpster does not have an attached lid, the rubbish or waste material shall not accumulate higher than the

top of the sides of the Dumpster and the Dumpster shall be covered by a tarp or similar device when the Dumpster is not in use.

(C) *Responsibilities of Owner/Vendor.* The Owner/Vendor shall ensure all Containers are delivered in good condition, free from evidence of ripping, tearing or other holes or breaks, and free from rodents, insects, graffiti, vulgar and/or pornographic words and/or images. The Owner/Vendor shall indicate its name and contact telephone number on the Container. The Owner/Vendor shall be required to confirm that a valid permit has been issued to allow the placement of the Container in accordance with this Section. It shall be unlawful for the Owner/Vendor to place, or allow to remain, a Container upon any property, public street or sidewalk or other public right-of-way where a permit for the use of a Container is required but has not been obtained.

(D) *Responsibilities of Property Owner.* Property Owners shall ensure that the Container is maintained in good condition, free from rodents, insects, graffiti, vulgar and/or pornographic words and/or images. When not being accessed immediately by a person, the Portable Storage Unit shall be kept locked. Dumpster lids and doors shall be kept tightly and completely closed when the Dumpster is not in use. If a Dumpster does not have a lid, it shall be kept covered with a tarp or similar device when the Dumpster is not in use. The area surrounding the Dumpster shall be kept clean and free of loose debris. No hazardous substances may be stored or kept within a Container. The Property Owner shall be responsible for the obligations specified in subsections (A) and (B) of this section.

§ 156.305 ENFORCEMENT

(A) *General.* This Section is to be administered and enforced by the Louisville Metro Department of Codes and Regulations, or its successor.

(B) *Notice of Violation and Citation.* Upon the failure, neglect or refusal of a Property Owner and/or Owner/Vendor of any Container to comply with this Ordinance, the Louisville Metro Code Official is authorized to issue a notice of violation describing the specific act of noncompliance and stating the applicable remedy within ten (10) days. The notice of violation shall be sent to both the Owner/Vendor, at the address specified on the Container, and the Property Owner, at the address specified on the permit. Should the violation stated in the notice of violation remain uncured ten (10) days after the issuance of the notice of violation, then a citation shall be issued in accordance with this Chapter, and Louisville Metro may, without providing notice to the Property Owner or the Owner/Vendor, remove the Container from the property. All citations shall be issued jointly to the Property Owner and the Owner/Vendor where the Code Officer is unable to clearly identify the party responsible for a violation of this section.

(C) *Corrective Action.* Louisville Metro may take corrective action to cure a violation of this section, including the removal and storage of the Container, if the Property Owner and/or Owner/Vendor fail to take the necessary action to cure the violation before the end of the appeal period as set forth in §156.808 of this Chapter. Should Louisville Metro choose to take corrective action, including the moving or removing of a Container to cure any violation of this section, the Code Official shall certify the costs of such corrective action to the Chief Financial Officer, who shall be authorized to forward the bill of costs to the Property Owner and/or Owner/Vendor to demand payment thereof.

Payment shall be required within thirty (30) days of the date of the bill of costs, including any storage costs incurred by Louisville Metro through its corrective action.

1. *Property Owner Liability.* The amount of any charge owed by a Property Owner for a violation of this section shall become a lien upon the land on which the Container was located and shall be collected in the same fashion as real estate property taxes.

2. *Owner/Vendor Liability.* An owner/vendor who accumulates more than ten (10) outstanding uncorrected violations resulting in the imposition of fines over a twelve (12) month period shall be identified by Louisville Metro and permits shall not be issued for Containers provided by said Owner/Vendor until said fines have been paid in full.

3. *Sale of Container.* Where an Owner/Vendor has received a citation under this section, either as the sole responsible party or as a jointly responsible party, and Louisville Metro has taken corrective action as described above to remove the Container from the property on which it was placed, the Owner/Vendor has sixty (60) days to remove the Container from the custody of Louisville Metro and pay all associated fines and costs. Should the Container remain in the possession of Louisville Metro after sixty (60) days, the Container and any contents thereof may be sold at public auction. If the permit is affixed to the Container, or if the Container otherwise indicates the name and contact information of the Owner/Vendor or the Property Owner, written notice of the proposed sale of the Container shall be provided to said Owner/Vendor and/or Property Owner ten (10) days prior to public sale. Any monies received from the sale of the Container shall be distributed in the following priority:

a. The costs of corrective action taken by Louisville Metro and the storage of the Container;

b. The costs of placing a lien on the property as described above, if warranted;

c. The costs of the public auction;

d. The amount of any fines or penalties assessed by Louisville Metro.

e. Should any balance remain, the same shall be paid to the Owner/Vendor. If information regarding the Owner/Vendor cannot be found, then any remaining balance should be paid to the Property Owner.

(D) Emergency Condition. If it determines an emergency condition exists, requiring action with regard to the Container, Louisville Metro may remove any Container without issuing a notice to the Property Owner or Owner/Vendor.

(E) Appeal Procedures. All appeals taken under this Ordinance shall follow the procedures specifically set forth in Louisville Metro Code of Ordinances § 156.808.

(F) Failure to appeal. The citation shall represent a determination that the violation has been committed, and that determination shall be final unless an appeal is taken in accordance with this Chapter.

(G) Hearings. All appeals of notices, citations and orders written or issued shall be heard by the Code Enforcement Board in accordance with the hearing procedures set forth in the Louisville Metro Code of Ordinances §§ 32.275 et seq.

SECTION II: If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudicated invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION III: This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Thomas L. Owen
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

MIKE O'CONNELL
Jefferson County Attorney

BY: _____